

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Request of Couleecap, Inc.
for a Waiver of Wis. Admin. Code PSC § 113.0803(1) Docket No. _____
Regarding Individual Electric Meters

REQUEST FOR PERMANENT WAIVER

Pursuant Wisconsin Administrative Code PSC §§ 113.01(2) and 113.0803(5), Couleecap, Inc. (“Couleecap”) respectfully requests that the Commission waive the individual metering requirement contained in PSC § 113.0803 for Couleecap’s Haven on Main project.

BACKGROUND

Couleecap is a 501c3 non-profit community action agency serving the needs of low-income people and families in Crawford, La Crosse, Monroe, and Vernon Counties. Couleecap was founded in 1966 and has served over 1 million people through more than 247 programs focused on combatting poverty and helping income-restrained individuals gain access to reliable and adequate housing, food, transportation, and other necessary resources. Couleecap takes on these issues by, for example, offering financial assistance to prevent or undo homelessness, guidance to individuals applying for government benefits including Social Security Disability benefits and the Wisconsin Home Energy Assistance Program, providing zero interest loans to individuals who need to buy or repair a car, counseling individuals buying a home, offering technical assistance to entrepreneurs who wish to start a business, providing education and training to individuals looking to enter or return to the job market, as well as providing food and clothing to those in need. (Affidavit of Hetti Brown (“Brown Aff.”), ¶ 2.) More detail regarding

Couleecap’s impact on the communities it serves is included in Couleecap’s 2023 annual report which is submitted with this request. (*See* Brown Aff., ¶ 2, Ex. 1.)

Couleecap has partnered with Gerrard Development LLC (“Gerrard”) to construct a new affordable housing development in downtown La Crosse—Haven on Main (“Haven on Main” or the “Project”). (*Id.*, ¶ 3.) This is not the first project Couleecap and Gerrard have partnered on. In the summer of 2024, they broke ground on a 24-unit affordable housing project in Prairie du Chien called Prairie Cottages. Prairie Cottages is walking distance from downtown Prairie du Chien and includes a community room, patio, garage and private driveway parking, and a playground. (Affidavit of Paul Gerrard (“Gerrard Aff.”), ¶ 3.) The building is equipped with an energy system offering the highest standard of energy savings available through the Wisconsin Green Built Home program. (*Id.*) Prairie Cottages is powered by solar energy, reducing the energy burden for residents to maximize the affordability of the project. (*Id.*) The City of Prairie du Chien, the Wisconsin Housing and Economic Development Authority (“WHEDA”), Cinnaire Solutions, the Wisconsin Department of Administration, Solar for Good and Focus on Energy all provided support to the Prairie Cottages development. (*Id.*)

Haven on Main is also based on models of success in other similar projects by Gerrard. For instance, 1300 Residences is a 50-unit affordable housing development in River Falls, Wisconsin which Gerrard developed in partnership with WestCap, another community action agency like Couleecap.¹ (*Id.*, ¶ 4.) Of the 50 units, 10 are reserved for residents with special needs and 10 for veterans with disabilities. (*Id.*) 1300 Residences is powered by 580 solar panels, including three large Smartflowers that open automatically and track the sun throughout the day. (*Id.*) The development received the highest ever score on the Green Built Home

¹ A link to an informational video regarding 1300 Residences is included in the Gerrard Affidavit at ¶ 4.

certification—its carbon dioxide emission savings are around 300 tons per year. (*Id.*) The energy efficiencies at 1300 Residences reduce energy costs by about \$60,000 per year, allowing residents to pay one fee for rent, which would include all utilities, and to have access to amazing on-site amenities, including educational and financial literacy classes, a community room, a picnic area, a playground and a library. (*Id.*) The development is also located near downtown River Falls shopping, green spaces, and schools. 1300 Residences has received numerous awards and recognition for its unique solutions to environmental and affordable housing issues, including from Governor Evers’ office, the Wisconsin Environmental Initiative, and the Affordable Housing Tax Credit Coalition. (*Id.*)

Another similar project, Beebe Lofts, is a 50-unit housing development serving seniors in New Richmond, Wisconsin. Beebe Lofts is also solar powered. Residents of Beebe Lofts enjoy indoor heated parking, a community room, a library, and even a rooftop garden. (*Id.*, ¶ 5.) The units at Beebe Lofts have in-floor hydronic heat and air conditioning, and all energy-efficient standard appliances, including washers and dryers. Residents at Beebe Lofts also enjoy 100% of all utilities included in rent—heat, hot water, air conditioning, all unit electricity, internet and cable, and parking. This project was supported by the City of New Richmond, including by means of a land grant, demolition, infrastructure, including electrical infrastructure, vacation of an alley, CDBG funds, and a pay-as-you-go TIF incentive. (*Id.*) This project was also supported by the Department of Administration, the Focus on Energy grant, Federal Home Loan Bank, and WHEDA. (*Id.*) The city was highly motivated to redevelop a dilapidated building and to utilize these funding sources to provide vibrancy in their downtown. The building is a cornerstone of the downtown area and is the tallest building in the entire downtown. The City has its own electrical utility program and therefore allowed a single meter for this project. In fact, the

interconnection agreement allowed for net metering on this project. As consideration for the City's agreement to allow a single meter, the Project involved a thirty-year land use restriction agreement recorded against the property. (*Id.*, ¶ 5.)

As described above, Beebe Lofts and 1300 Residences are both single-meter developments. In order to maximize the energy cost savings, the projects were not individually metered, and were made possible by the fact that the municipal-owned utilities in the communities where they are located granted them waivers to the individual metering requirement. These projects represent what is possible if solar-powered projects are allowed to proceed without the requirement of individual metering. The impressive results flowing from these projects will also flow from the Haven on Main Project, but, as explained below, only if the Commission grants Couleecap's request for a waiver of the individual metering requirement.

I. The Project

Couleecap and Gerrard are developing Haven on Main in conjunction with other subcontractor and community partners to comprehensively address the greatly underserved needs of low-income and disabled residents in the La Crosse area. Haven on Main will have 70 units, at least 85% of which will house individuals living at or below 60% of the County Median Income level. (Brown Aff., ¶ 4.) At least 50% of the units will house individuals with disabilities, and Couleecap has also designated 8 units for veterans with disabilities and unhoused individuals. (*Id.*, ¶ 4.)

The Project will be located downtown, close to work opportunities, educational and healthcare institutions, entertainment and other public amenities. (*Id.*, ¶ 5.) Once constructed, Haven on Main will offer tenants private amenities which are rarely seen in affordable housing: covered and temperature-controlled parking, common office spaces, outdoor recreational space,

an indoor gym/fitness area, a communal garden, a library and game space, and a communal kitchen and event space. (*Id.*)

Tenants will also have access to crucial services. Couleecap will be a tenant of the property providing services to tenants and community members. (*Id.*, ¶ 6.) These services will include HUD-certified financial counseling, transportation, food assistance, educational services, and more. (*Id.*) Haven for Special People (“HFSP”) will also be a tenant at the property. (*Id.*) HSFP is a non-profit group comprised of parents, educators, and other community members supporting disabled individuals. (*Id.*) HSFP will host events and activities for tenants, sponsor facility improvements, and act as a liaison between tenants with disabilities and property managers. There will also be an onsite food pantry, workforce training sessions, wellness events and other education programming. (*Id.*)

The greater La Crosse community has shown phenomenal support for the Project, and for this waiver request. (*Id.*, ¶ 7.) Wisconsin State Senator for the 32nd District, Brad Pfaff, writes that he supports the Project, noting that it will help serve an underserved population—individuals with disabilities and low-income households—that need housing that is truly affordable in that it addresses both the cost of rent and utilities. (*See Brown Aff.*, ¶ 7, Ex. 2.) Wisconsin State Representative Jill Billings explains the need for the waiver in that “the residential meter cost will be significantly higher than the projected cost of actual electricity usage per unit” and says that by waiving the metering requirement, the PSC “is protecting the consumer from these cost burdens.” (*See Brown Aff.*, ¶ 7, Ex. 3.) Tina Tryggstad, La Crosse County Board Chair, supports the Project and its efforts to curb the “significant and recurring financial burden” of utility costs on La Crosse residents facing poverty. (*Brown Aff.*, ¶ 7, Ex. 4.) City council member Erin Goggin has also lent her support for the Project, highlighting the need to provide

housing for adults with disabilities. (*Id.*, at ¶ 7.) The YWCA, Western Technical College, and the La Crosse Foundation all support the project. Finally, local nonprofits Chileda and Aptiv that work with community members with disabilities and special needs also support the project, noting that it will help those residents find accessible and affordable housing. (*Id.*)

This is a truly unique project with incredible potential to offer an exceptional housing experience to the otherwise underserved, low income and disabled individuals.

II. The Project's Energy Plan

Coulecap and Gerrard believe that housing cannot be affordable unless energy costs are also affordable. Households in poverty pay up to 18% of their income on utility bills. (Brown Aff., ¶ 8.) Coulecap and Gerrard designed Haven on Main with this issue top of mind.

The Project's design requires a single meter approach, utilizing solar energy as a primary energy source. The electrical service will consist of a single 2000-amp, 120/208-volt, 3 phase CT metered cabinet serving all house, HVAC, and apartment loads. (*See* Brown Aff., ¶ 8, Ex. 5 (power schematic).) Solar power will interconnect with this service to offset energy usage coming from the grid. The Project's solar system will include 488 rooftop panels, is rated at 283.04 kW, and has an estimated energy offset of 62%. (Brown Aff., ¶ 9.) The Project's solar contractor estimates that deploying this solar system will save over \$1,000,000 in energy costs over the next 30 years and the net savings, after accounting for installation cost and available incentives for using solar to power the Project, will be approximately \$776,081. (*See* Brown Aff., ¶ 9, Ex. 6 (solar estimate).)

The environmental benefits of using solar are similarly impressive. By powering Haven on Main with solar energy, the Project will have the same environmental impact as driving 15

million fewer miles, conserving over six million pounds of coal, or planting over 100,000 trees. (*Id.*, ¶ 9.)

The Project was also designed to maximize efficiency as to energy usage. (*See* Brown Aff. ¶ 10, Ex. 7 (Cornerstone Architects, LLC letter describing Gerrard building designs from an energy efficiency standpoint).) The building has a centralized Variable Refrigerant Flow (“VRF”) HVAC system which allows temperature migration among units without outside energy input. (*Id.*, ¶ 10.) The parking area is also heated by the VRF system. All unit appliances are Energy Star rated and each unit will be equipped with a natural gas tankless water heater. All units will be heated using gas, in-floor heat. (*Id.*) Building exteriors include continuous wall insulation and a cork-based synthetic stucco finish for a total R-value of 33 (29 and 4, respectively). (*Id.*) The building’s windows will have an overall U rating of .26, and the 22” deep roof truss cavity is fully blown with insulation and the roof also has a 2” continuous rigid roof insulation for a total of R-value of 70. (*Id.*)

III. Solar and Single Metering Make the Project Affordable

Under the above approach, Couleecap is able to cover all utility costs—tenants will not be charged any amount other than their monthly rent payments. Couleecap will accomplish this while (of course) maintaining all rents under applicable low-income limits for tenants earning between 30-60% of the County Median Income. (*Id.*, ¶ 11.) The truly unique nature of this project means that its tenants will not have to worry about the cost of electric, gas, sewer, water, cable, or internet service. (*Id.*)

Tenants will never pay more than their rent at Haven on Main. (*Id.*, ¶ 12.) Once the Project passes the tax credit compliance period such that ownership transfers from Couleecap’s managing member LLC to the non-profit corporation itself, Haven on Main will enter a

Community Land Trust ensuring that it will perpetually be designated as affordable housing serving disabled and low-income individuals for the life of the project. (*Id.*)

Nor will any tenant experience the distress of disconnection of utilities for non-payment. (*Id.*, ¶ 13.) Couleecap as the managing member of Haven on Main LLC will be the only utility customer at Haven on Main. (*Id.*, ¶ 13.) In the event a tenant fails to pay their rent, the property managers will follow the ordinary notice and, only if necessary, eviction process. (*Id.*) But throughout that process the tenant's (and all other building tenants') utility service will remain uninterrupted. (*Id.*)

The cost of utility electric service at Haven on Main will be minimal. Based on a twelve-month sample of energy usage and cost at Beebe Lofts, which as mentioned above is a similar single-meter solar-powered project by Gerrard in New Richmond, the expected per-unit cost for grid-derived electrical service at Haven on Main is \$3.58 per unit per month. (*See* Brown Aff., ¶ 14, Ex. 8 (Kish Electric study and backup data).) By comparison, if the Project utilized individual metering, the cost for those meters alone would be \$17 per unit per unit per month—5 times the anticipated electrical usage cost. (*Id.*, ¶ 14.)

IV. Limited Grant Funding Opportunity

Under the umbrella of the Greenhouse Gas Reduction Fund, the federal government has recently awarded 60 applicants, including the Wisconsin Economic Development Corporation, funds to administer local Solar For All grant programs with the sole purpose of supporting the deployment of solar systems in low and moderate-income settings to produce at least a 20% reduction in energy burden for end utility users. While the funding is substantial, it is—like any grant funding—finite. Projects like Haven on Main rely on grant funding such as Solar For All in order to be able to offer not only affordable housing but affordable energy. The Project has also

received an allocation of Section 42 Federal Tax Credits from the Wisconsin Housing and Economic Development Authority and has obtained additional funding from a variety of local sources including social impact investments, grants, and private investments.

The Project cannot make use of Solar for All funding if required to comply with the individual metering requirement. The energy design for Haven on Main only makes economic sense with a single-meter approach, as the energy burden for each household would be reduced to zero, meeting and exceeding the 20% energy burden reduction goal. As stated earlier, residents living in poverty – the residents who will become candidate tenants for Haven on Main – currently experience extreme energy burden of 18% in the La Crosse area. If the Project is unable to use Solar for All funding to deploy the proposed solar system to offset tenants’ utility costs, the Project will fail, and La Crosse’s disabled and low-income residents will lose out on this incredible opportunity.

LEGAL STANDARD

When an agency exercises discretion, it must engage in “a process of reasoning, not decision-making, and reasoning must depend on facts in the record or reasonably derived therefrom, and a conclusion based on a logical rationale founded upon proper legal standards.” *Rickaby v. Wisconsin Dep't of Health & Soc. Servs.*, 98 Wis. 2d 456, 461–62, 297 N.W.2d 36 (Ct. App. 1980) (citation omitted). “Discretion is more than a choice between alternatives without giving the rationale or reason behind the choice.” *Daniels v. Wisconsin Chiropractic Examining Bd.*, 2008 WI App 59, ¶ 6, 309 Wis. 2d 485, 750 N.W.2d 951. An agency’s exercise of discretion will be upheld where the record reflects “that discretion was in fact exercised and the basis of that exercise of discretion [is] set forth.” *Id.*

REQUEST

The Commission should waive the individual metering requirement for Haven on Main. The Commission has the discretion to do so and can do so consistent with the plain language of its rules and relevant statutes, and without undercutting the purposes for which the individual metering requirement exists. The Commission has exercised its discretion in the recent past to waive the requirement for another project involving solar power in a multi-tenant building and the Commission's reasoning supporting that waiver applies equally here. The nature of the Project and the circumstances surrounding it are exceptional and unusual—the only prerequisites to a waiver under Wis. Admin. Code § PSC 113.01(2). The unusual and exceptional circumstances here include the fact that the Commission has begun the rulemaking process to reexamine the individual metering requirement, in an apparent recognition that the rule is out of date. Consistent with that reexamination, the Commission should recognize that Haven on Main is exceptional and unusual, and that there is reasonable cause to grant a waiver. Finally, the electric equipment under tenant control is substantially more efficient than required by applicable codes, and there is reasonable cause to grant a waiver here under Wis. Admin. Code § 113.0803(5).

I. The Commission Has the Discretion to Waive the Individual Metering Requirement.

Wisconsin Administrative Code PSC Section 113.01(2) empowers the Commission to exercise discretion when applying its rules to “exceptional or unusual situations.” Section 113.01(2) provides that in such situations the Commission may give “special and individual consideration . . . and upon due investigation of the facts and circumstances therein involved,” it may adopt different requirements than provided in the Commission's rules for such situations.

This is a discretionary standard that gives the Commission flexibility in the application of its rules.

The Commission has previously relied on Section 113.01(2) to waive the individual metering requirement. In 2022, the Commission waived the individual metering requirement after considering a request by a multi-unit building owner who wished to remove the individual metering at his property to allow him to install a PV solar array system. *See Request of Nicholas Balazs for a Waiver of Wis. Admin. Code § PSC 113.0803 Regarding Individual Electric Metering, for the Purpose of Installing a Photovoltaic Solar Array*, Dkt. No. 3270-EI-102, PSC REF#: 445750. In that case, the Commission noted that applying the individual metering requirement “would unnecessarily increase costs and would not present (sic) the dangers the individual metering requirements are intended to protect against.” *Id.* at 6. This decision is discussed in greater detail, below.

II. Haven on Main is an Exceptional and Unusual Project that Merits a Waiver under Wis. Admin. Code § PSC 113.01(2).

Due to the unique design and circumstances surrounding Haven on Main, the Commission should waive the individual metering requirement under Wis. Admin. Code § PSC 113.01(2). That section provides:

Nothing in this chapter of the Wisconsin Administrative Code shall preclude *special and individual consideration being given to exceptional or unusual situations* and upon due investigation of the facts and circumstances therein involved, the adoption of requirements as to individual utilities or services which shall be lesser, greater, other, or different than those provided in said rules.

(Emphasis supplied.) Here, the Commission can grant a waiver, recognizing the exceptional and unusual circumstances attendant to the Project while still ensuring that the Project will prevent the dangers the requirement is intended to protect against. That is, “The individual metering requirements are generally intended to promote energy conservation, ensure that each customer

is billed for his or her own consumption only, and ensure that the utility is able to disconnect the electric service to an individual unit without affecting the service of other units at a property.”

PSC REF#: 445750 at 4.

The Project’s design satisfies the purposes underlying the individual metering requirement without the need for individual metering. The solar powered energy system at Haven on Main is a model of energy conservation and efficiency. It will offset approximately 62% of traditional energy usage. Other aspects of the Project, including the building and insulation materials, as well as the Energy Star appliances, also maximize energy efficiency. The tenants at Haven on Main are not billed for energy consumption at all, so there is no concern that they will be billed for more than their share of the energy consumption. The costs of all utilities, including electric, are ultimately the responsibility of the landlord. Finally, there will be no circumstance where the utility would need to disconnect service to any individual unit. Again, tenants do not pay for utilities, Couleecap does. And while there is little risk that Couleecap would fail to pay the utility when the estimated cost of grid-derived electrical usage is so low as a result of the energy efficiency of the Project, Couleecap would agree, as a condition of receiving a permanent waiver, to commit to escrow (or otherwise deposit) funds sufficient to cover the anticipated cost of a year’s worth of anticipated electrical utility costs. (Brown Aff., ¶ 15.)

Many of the same aspects the Commission deemed sufficient to grant the waiver in the 2022 case also exist with respect to Haven on Main. In the 2022 case, the Commission considered the energy usage offset provided by the proposed solar system and the fact that the owner had installed Energy Star appliances. PSC REF#: 445750 at 5-6. Haven on Main will offset approximately 62% of grid energy usage and will include all Energy Star appliances. The

Commission also noted that those efficiencies “mitigated” the risk of overpayment by a given tenant because of the reduced utility billing. *Id.* at 6. The same is true of Haven on Main—the per unit per month cost of utility electricity is estimated to be less than four dollars per unit per month, or \$264.92 for all units for one month. It is extremely unlikely that such a small payment would go unpaid. Additionally, the owner in the 2022 case agreed not to resell energy to his tenant. *Id.* Neither will Haven on Main—Haven on Main will be the sole customer to the utility, and will not resell energy to the tenants. The Commission rejected the utility’s argument in the 2022 case that because the proposal did not satisfy the waiver requirements under PSC § 113.0803(5), the Commission should not grant a waiver. *See id.* at 5-6. To the extent the utility makes a similar argument in this case, the Commission should reject it and find that it may grant the waiver under Section 113.01(2). Finally, the Commission cited solar powered systems’ “economic benefits to all utility customers of moderated growth in demand and use, and avoid[ance of] adverse environmental impacts.” *Id.* at 6. Haven on Main also provides all of those benefits.

Haven on Main is also exceptional and unusual compared to other low-income projects. The demand for affordable housing in Wisconsin (and the nation) far exceeds the availability of affordable housing. The National Low Income Housing Coalition reports that for every 100 renter households there are only 80 homes that renters at 50% of the area median income can afford and there are only 34 homes that renters at 30% of the area median income can afford.² The most recent La Crosse Fair Housing Study notes that 37% of households in the City of La Crosse reported being cost burdened, overcrowded, or lacking complete kitchen or plumbing

² <https://nlihc.org/housing-needs-by-state/wisconsin>

facilities.³ For people with disabilities, the report notes a lack of housing. 11% of city residents over the age of five have a disability, yet searches using HUD’s Affordable Apartment Search Tool and other housing databases found that accessible and affordable housing were very limited. There are simply too few projects like Haven on Main for it to be deemed ordinary or usual.

To the extent affordable housing options are available, they are nothing like Haven on Main. It is unusual for affordable housing to offer temperature-controlled parking, a fitness center, non-profit services on site, a rooftop garden, or many of the other high-end amenities that will be available at Haven on Main. Typically, affordable housing meets the basic needs of its tenants and little – if anything – more. (Brown Aff., ¶ 16.) But this Project is exceptional in that it provides access to housing typically unavailable to individuals suffering with income insecurity and/or disabilities. (*Id.*)

The Project is also unusual in that it is led by a community action agency, Couleecap, and a developer with a proven track record of successfully partnering with community action agencies to develop projects just like this one. The few projects that offer similar housing environments to that at Haven on Main are ones completed by Gerrard and its community action partners like Couleecap and WestCap, for example the 1300 Residences project in River Falls. Without the efforts of these organizations, these projects would not exist.

This situation is also unusual in that the government funding making this Project possible has only just become available and will be subject to significant demand. The Solar For All funding is not limited to multi-tenant projects like this one; it can also be used to fund solar installations on private homes and low-income community solar power systems. Solar is

³ <https://www.cityoflacrosse.org/home/showpublisheddocument/296/637106523800630000>

expensive and there is a great need to update energy resources in low-income settings. The money will go quick. Couleecap needs to act soon to obtain funding but cannot do so without a waiver—the economics of the Project require single metering to make solar feasible.

III. The Uncertain Future of Section 113.0803 is Also Unusual

The Commission has recognized the need to revise Section 113.0803. The Commission recently opened the rulemaking process to address potential amendments to Section 113.0803. The rule predates the prevalence of renewable energy systems as a viable alternative to utility power. *See Wis. Admin. Code PSC § 113.0803* (history section noting that the rule was created in 2000 and amended in 2002). While the rulemaking process is in its early days, the Commission released the text of the proposed rule which would include the following provision:

Owners of new or rehabilitated multifamily buildings that have long-term regulatory agreements with state or federal agencies to provide affordable housing for qualifying low-income customers, such as through the Low-Income Housing Tax Credit Program, may seek a waiver of the requirement to have individual electric meters if the proposed new building or remodel shows long-term cost savings to residents.

PSC REF#: 511971. Haven on Main would plainly qualify for a waiver under the proposed rule. It is a multifamily building that is under a long-term agreement to provide affordable housing through the Low-Income Housing Tax Credit Program and can show long-term cost savings to residents. As discussed above, there is no energy cost to residents and the overall per-unit energy cost of the Project is more than 5-times less than it would be with individual metering.

Recognizing that the rule-making process is ongoing, the existence of such a proposal demonstrates the appropriateness of a waiver in this case. The Commission's decision to consider alternatives to the existing rule reflects an awareness that other means exist to prevent the harms the rule is intended to guard against. Where, as here, the circumstances achieve that result through a granting a waiver of the rule (which is allowed under the plain language of the

rule), it is consistent with the Commission’s willingness to amend the rule for the Commission to waive the rule in this case.

IV. Haven on Main has Shown Reasonable Cause that Merits a Waiver under Wis. Admin. Code § PSC 113.0803(5).

The Commission should also grant a waiver under Wis. Stat. §113.0803(5). This provisions states:

For reasonable cause shown, the commission may grant waivers of this rule on a case-by-case basis. Applications for a waiver must be submitted to the commission in writing and set forth the facts or reasons applicant believes justify a waiver. In cases involving multi-dwelling unit residential buildings, the applicant must show that the electric equipment under tenant control is substantially more efficient than required by applicable codes and that the overall electric usage under tenant control is minimal. Example cases which would not qualify for waiver are buildings which are electrically heated or buildings which have individual unit electric water heaters.

Should the Commission not deem it appropriate to grant a waiver under Section 113.01(2), it should exercise its discretion to grant a waiver under Section 113.0803(5). Notably, Haven on Main will not be electrically heated and will not have individual unit electric water heaters. (Brown Aff., ¶ 10.) Thus, Haven on Main is not disqualified from receiving a waiver under Section 113.0803(5). Electrical usage under tenant control at the Project is substantially more efficient than required by applicable codes, and the cost of electrical usage under tenant control will be minimal (and it will not be borne by the tenants—it will be paid by Couleecap). And Couleecap has more than demonstrated reasonable cause for the Commission to waive the individual metering requirement for Haven on Main. Described throughout this request, the “reasonable cause” Couleecap has shown includes the following: 1) tenants will not be responsible for utilities; 2) Couleecap and Gerrard have proven track records; 3) the energy efficiency of the Project is exceptional; 4) the need for the Project is immense; 5) the widespread community support for the Project; 6) the Project will remain affordable in perpetuity; 7) the

significant cost savings to tenants, particularly as compared to the cost of individual metering that would otherwise be borne by the tenants; 8) the remarkable, high-quality facilities and services that will be made available to low income individuals, veterans and individuals with disabilities; 9) the unique funding opportunities that will otherwise be lost if Couleecap is required to individually meter the Project; and 10) Couleecap is willing to escrow one-year of anticipated electrical costs to ensure that the Project is not disconnected from the grid at any time. If the Commission determines that a waiver is not appropriate under Wis. Admins. Code § PSC 113.01(2), Couleecap respectfully requests that the Commission grant a waiver under Wis. Admin. Code § PSC 113.0803(5).

CONCLUSION

Haven on Main represents a unique opportunity to serve an otherwise underserved population and meet the needs of the most vulnerable within the La Crosse community. The Commission should exercise its discretion—discretion granted to the Commission by its own rules—to waive the individual metering requirement for Haven on Main. The Commission plainly has discretion to waive this requirement and can do so here while upholding the policy behind the requirement. In fact, failure to grant a waiver would run counter to the rule’s stated purpose of protecting consumers—it would *harm* consumers and deprive the underserved populations that would otherwise be served by this Project of the unique opportunity they would otherwise have to reside at Haven on Main. Couleecap and Gerrard respectfully ask the Commission to waive the requirement to allow them to provide 70 low-income and disabled

households high-quality, affordable housing unlike any that is currently available in the La Crosse community.

Dated this 7th day of November, 2024.

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